RNTPC Paper No. A/NE-FTA/182
For Consideration by the
Rural and New Town Planning
Committee on 6.4.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/182

Applicant : Mr. CHUNG Hon Lam represented by New Creation Consultant Engineering Co. Ltd.

Site : Lots 427 S.D, 427 RP, 427 S.E RP, 433 (Part), 445 (Part), 446 (Part), 447 (Part), 462 (Part), 463, 464 (Part), 465 (Part), 466 (Part), 467, 468, 518 RP, 520 RP, 521, 522, 523, 524, 525 and 526 in D.D. 89 and Adjoining Government Land, near Lo Wu Station Road, Man Kam To Road, N.T.

Site Area : 20,800m² (about) (including about 100m^2 of Government land)

Lease : (a) New Grant Lot (for Lot 526 in D.D. 89) (about 749m^2 or 3.6% of the Site)
(b) Block Government Lease (demised for agricultural use) (for the remaining Site) (about 19,962m^2 or 95.97% of the Site)
(c) Government Land (about 0.43% of the Site)

Plan : Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16

Zoning : "Agriculture" ("AGR")

Application : Proposed Filling of Land and Pond for Permitted Agricultural Use (Hydroponic Farm)

1. The Proposal

1.1 The applicant seeks planning permission for proposed land and pond filling (about 2-3m in thickness to a level at +6.5mPD) for permitted agricultural use (hydroponic farm) on the application site (the Site) (**Plan A-1**). The Site falls within an area zoned "AGR" on the approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/16. According to the Notes of the OZP, 'agricultural use' is a Column 1 use which is always permitted. However, any filling of pond or filling of land (except for (i) laying of soil not exceeding 1.2m in thickness for cultivation; or (ii) construction of any agricultural structure with prior written approval issued by Lands Department) necessary to effect a change of use to those always permitted under Column 1 within "AGR" zone requires permission from the Town Planning Board (the Board).

1.2 According to the applicant, the proposed land and pond filling are to facilitate the development of an always permitted hydroponic farm. As shown on the site and the layout plans at **Drawings A-1** and **A-2**, 29 greenhouses (L: 50m x W: 6m x H: 4.57m/ L: 40m x W: 6m x H: 4.57m) and 9 sets of converted-container structures for plant nursery rooms and cold storage (L: 12m x W: 2.5m) are proposed on Site. Construction of a 6m

wide steel bridge across a stream course for agricultural transport use, straightening of existing stream courses and laying of drain pipes are also proposed.

1.3 The Site is accessible to Man Kam To Road via a local track (**Plan A-2a**). An office cum guard kiosk (L: 40m x W: 6m x H: 2.5m), two parking spaces for private vehicles and two loading/ unloading bays for light goods vehicles will be provided at the eastern part of the Site (**Drawings A-2**).

1.4 In support of the application, the applicant has submitted the following documents:

(a)	Application Form with attachment received on 8.2.2018	(**Appendix I**)
(b)	Supplementary Information received on 12.2.2018 clarifying the proposed land/pond filling level and the 6m wide steel bridge being an ancillary use to the agricultural use.	(**Appendix Ia**)

1.5 The Site is the subject of two previous planning applications (Nos. A/NE-FTA/151 and A/NE-FTA/156) submitted by the same applicant for temporary goods reshuffling yards for a period of 3 years and temporary unloading/loading platforms for a period of 3 years respectively. Planning application No. A/NE-FTA/151 was rejected by the Board on review on 24.7.2015 while No. A/NE-FTA/156 was rejected by the Committee on 9.10.2015.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in part 9 of the Application Form and supplementary information at **Appendices I and Ia** respectively. They can be summarized as follows:

(a) the land filling activity and proposed hydroponic farm at part of the Site covering Lots 466, 520 RP, 521, 522 and 523 in D.D. 89 had been previously agreed by District Lands Officer/North, Lands Department (DLO/N, LandsD), Environmental Protection Department (EPD) and Agricultural, Fisheries and Conservation Department (AFCD);

(b) a letter of approval had once been issued by LandsD on 18.1.2017 but later cancelled and revoked due to unauthorized land filling activity on other lots which were in process of application with relevant Government departments; and

(c) the unauthorized land filling activity had ceased immediately as requested by Government department.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "current land owner" but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent /Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by taking reasonable steps to give notification to other current land owners including advertising on three newspapers, posting site notice and sending notice to the Ta Kwu Ling District Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

4.1 The applicant was granted a Letter of Approval (LoA) No. 6594 issued by LandsD on 18.1.2017 for the erection of 11 agricultural structures covering Lots 466, 520 RP, 521, 522, 523 in D.D. 89 (i.e. area edged green on **Plan A-2b**). The associated Certificates of Exemption in relation to the proposed agricultural structures (for Building Works and Site Formation) were issued by LandsD on 16.5.2017. The Certificates of Exemption (Site Formation) specified that the site formation level for the agricultural structures should not exceed +3.9mPD. As illegal land filling was carried out on Site and complaints were received from June 2017, warning letters were issued by LandsD to the applicant on 4.7.2017 and 28.8.2017 respectively. Since the applicant failed to rectify the illegal landfilling, the LoA and Certificates of Exemption were cancelled and revoked by LandsD on 12.10.2017.

4.2 According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is currently subject to two enforcement actions against unauthorized filling of land. Two Enforcement Notices (ENs) were issued on 24.8.2017 (No. E/NE-FTA/161) and 21.9.2017 (No. E/NE-FTA/163) respectively to the concerned parties requiring discontinuance of the UD (**Plan A-2b**). On 30.11.2017, two Reinstatement Notices (RNs) were issued to the concerned parties with the requirements to remove the fill materials and to grass the land by 2.3.2018. According to the latest site inspection on 7.3.2018, the Site had not been reinstated. If the requirements of the RN are not complied with, prosecution action would be taken against the notice recipients.

4.3 Based on the latest aerial photo taken on 29.4.2017 (**Plan A-3**), the southwestern part of the Site were wet agricultural land and the remaining area was covered by vegetation with some trees (with site levels ranging from +3.4mPD to +4.5mPD). Subsequently, the land filling works occurred on the Site as revealed in **Plan A-4a to Plan A4c**. In view of the above, the current application is a "Destroy First, Build Later" case.

5. Previous Applications

5.1 The Site is the subject of two previous planning applications (Nos. A/NE-FTA/151 and A/NE-FTA/156) submitted by the same applicant for temporary goods reshuffling yards for a period of 3 years and temporary unloading/loading platforms for a period of 3 years respectively.

5.2 Planning application No. A/NE-FTA/151 was rejected by the Board on review on 24.7.2015 while No. A/NE-FTA/156 was rejected by the Committee on 9.10.2015. Both planning applications were rejected on similar grounds that the proposed uses were not in line with the planning intention of the "AGR" zone; the proposed uses did not comply with the TPB PG No. 13E in that there was no previous planning approval granted at the Site; the proposed developments were not compatible with the surrounding land uses and the applicant failed to demonstrate that the developments would have no adverse traffic/environmental/landscape impacts on the surrounding area; and the setting of undesirable precedent.

5.3 Details of the previous applications are at **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Applications

There is no similar application for land/pond filling within the "AGR" zone in the vicinity of the Site in the Fu Tei Au and Sha Ling area.

7. The Site and Its Surrounding Areas (Plans A-1, A-2a to A-2b, A-3 and A-4a to A-4c)

7.1 The Site is:

(a) currently vacant and largely being filled with C&D materials (about 2-3m in thickness);

(b) covered by sand and gravel with an asphalt-paved track in the central portion;

(c) traversed by two sections of a stream running in a northeast-southwest and east-west directions in its northwest and east (**Plan A-2a**);

(d) accessible via a local track to its east leading to Man Kam To Road; and

(e) located within the consultation zone of Sheung Shui Water Treatment Works.

7.2 The surrounding areas have the following characteristics:

(a) to the northwest is a cluster of domestic structures (**Plan A-2**);

(b) to its north and south are active/fallow agricultural land; and

(c) to the east of the Site comprises a track, some unused/ fallow agricultural land, and to the further east are plant nursery, some tree clusters and a domestic structure (**Plan A-2a**).

8. Planning Intention

The planning intention of the "AGR" zone in the Fu Tei Au and Sha Ling area is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

(a) he does not support the application from land administration and lease points of view;

(b) Except for Lot 526 in D.D. 89, all other private lots within Site are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make her own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement. Lot 526 in D.D. 89 is a New Grant Lot but its details cannot be ascertained based upon the record provided by the Lands Registry;

(c) there are unauthorized structures erected on Lots 516 RP, 527RP and 520 RP in D.D. 89 **(Plan A-2a**) within/ adjoining the Site without prior approval from this office. The aforesaid structures are not acceptable under the Leases concerned and this office reserves the right to take necessary lease enforcement actions against the aforesaid structures;

(d) some Government land within/ adjoining the Site is being illegally occupied. The applicant should cease occupation of the said portion of the Government land, and demolish the unauthorized structure thereat. This office reserves the right to take necessary land control actions against the irregularity; and

(e) since the LoA and Certificates of Exemption were cancelled and revoked on 12.10.2017, should the application be approved, the applicant has to apply to AFCD and this office for a fresh 'Letter of Approval' to cover any proposed agricultural structures for the proposed hydroponic farm. However, having considered that the Site has already been filled up, it is not certain that the Site could meet the criteria of issuing Certificate of Exemption (Site Formation), and so there is no guarantee that Certificate of Exemption (Site Formation) could be issued.

Agricultural and Nature Conservation

9.1.2 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

(a) he objects to the application from nature conservation point of view;

(b) according to the application, filling of land and pond of about 2-3m in height was proposed for hydroponic farm/ greenhouses. Considering the depth of land-filling has little to do with crop cultivation, he is not in a position to render expert advice on the depth of land-filling required for erection of hydroponic farm/ greenhouses and ancillary facilities from agriculture point of view. The applicant should provide justification for the consideration of the Board;

(c) from nature conservation point of view, while majority of the Site has already been filled with construction wastes and other materials before obtaining planning permission, he noted from aerial photos and existing condition of the surrounding environment that the Site and its vicinity was a piece of wetland consisted of marsh/ watercourse/ etc., which might be of considerable ecological value. The applicant failed to identify (and address) any potential ecological impact that may arise from the proposed land filling activity. Since majority of the Site is the subject of an enforcement case of suspected illegal landfilling under PlanD, this seems to be a case of "destroy

first, develop later" which should not be encouraged; and

(d) regarding the claim in Part 9 of the application form, he would like to clarify that the applicant submitted an application for a LoA for Agricultural Structures to AFCD on 28.6.2016 and proposed to erect 11 greenhouses and other ancillary facilities at part of the Site, which was fallow agricultural land without any land-filling activities at the time of the application. Taking into account the proposal and result of site inspection at that time, the application for LoA was supported by AFCD only on the above understanding.

Environment

9.1.3 Comments of the Director of Environmental Protection (DEP):

(a) he has strong reservation on the application based on the following:

(b) there is no technical assessment provided by the applicant to support the application. The information in the application has not demonstrated the environmental acceptability of the proposal. The applicant is requested to provide further detailed information and justifications in the form of an Environmental Assessment (EA) report to address the issues of (i) whether or not the proposal is a Designated Project (DP) under EIAO Schedule 2 Part I Items C.12 and/or I.1(b); (ii) water quality impacts due to the proposed construction & landfilling works, wastewater discharge from farming activities and wastewater discharge from on-site toilets and wash-basins; (iii) potential hazard to life arising from a Potentially Hazardous Installation (PHI), i.e. Sheung Shui Water Treatment Works; and (iv) other environmental issues including air quality, noise and waste management arising from the proposal during its construction and operation stages (see detailed comments in **Appendix III**);

(c) regarding the claim in Part 9 of the application form, he would like to clarify that EPD never agreed to the land filling at the Site nor did EPD agree to the proposed hydroponic farm. The letter from EPD dated 25.7.2017 (**Appendix I**) merely indicated that the prior notification procedures under Waste Disposal Ordinance (WDO) are not applicable if the deposition forms part of the building works carried out according to the Buildings Ordinance (Application to the New Territories) Ordinance or the Buildings Ordinance;

(d) since LandsD had revoked and cancelled the Certificates of Exemption for the concerned landfilling sites on 12.10.2017, any person who wishes to deposit C&D waste on the concerned private land is required to obtain the written permission of the owners given in a specified form (EPD-238) and submit it to EPD before the intended date of the deposition. After acquiring EPD's acknowledgement on the form, the depositor (e.g. the contractor concerned or the dump drunk driver transporting construction waste) must ensure that a copy of the acknowledged form is displayed in a conspicuous place on the lot before depositing the waste; and

(e) EPD has received environmental complaints with the following details:

(i) in 2015, one non-substantiated complaint about suspected change of land use on Site was received;

(ii) in March 2016, one complaint on suspected unauthorized landfilling was received. However, no sign of landfilling was observed during their inspections at that time; and

(iii) since 2017 to 2018 (as at end March 2018), 32 complaints have been received. During one of their ambush operation, a truck driver was caught red-handed dumping C&D waste at the Site. The driver who did not receive the consensus (i.e. the valid permissions from the landowner via the notification form EPD-238) from the landowner for the landfilling works to be carried out is now being prosecuted. It is also noted that PlanD had issued enforcement and reinstatement notices for the concerned private lots' owners in August, September and November 2017 respectively.

Landscape

9.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

(a) she objects to the application from landscape planning point of view;

(b) the Site is the subject of a previous rejected planning application No. A/NE-FTA/156 for development of temporary unloading and loading platforms, to which she had objection from the landscape planning perspective;

(c) according to the aerial photo of March 2017, the Site is located in an area of rural landscape character comprises of farmland, village settlements, ponds and tree clusters. Nevertheless, based on her site record dated 28.2.2018, she had the following observation:

(i) unauthorized land filling: the Site and some adjacent areas as per early 2017 were fallow agricultural land with some wetland. Most of the Site except the wetland at northern and eastern end has been filled with C&D wastes which may cause water pollution to the adjoining area; an extensive land filling of at least 2m in height above the surrounding ground level at the entire Site (over 2ha) is formed and partly covered with asphalt. The soil banks are covered with loose material which may be easily washed off into the existing streams within the Site and adjoining areas during the torrential water storm. There is also a concern on slope safety issue. The land formation has already caused water logging in adjoining lots with existing temporary structures just outside its eastern boundary;

(ii) unauthorized significant vegetation clearance arising from the filling of land and vehicular access outside Site prior to seeking permission; and

(iii) existing narrow stream at the southern portion of the Site was filled and may have potential adverse impact to the irrigation/ drainage of

the adjoining areas; and

(d) although the proposed land use is in line with the current "AGR" zone, the extensive filling of land with hard surface are considered incompatible with the rural agricultural landscape character in the area and no information is provided to justify the extent of land filling up by 2-3m. Approval of the application may set an undesirable precedent to encourage similar vegetation clearance/ land filling prior to permission. This will jeopardize the existing valuable rural landscape resources and irreversibly degrade the agricultural landscape character in the area.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

(a) he has reservation on the application without a proper Drainage Impact Assessment (DIA) as filling of existing wetland and low-lying fields might reduce flood storage;

(b) the applicant should submit a DIA prior to filling of land for his consideration and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent areas;

(c) the applicant should be advised of the general requirements in the drainage proposal at **Appendix IV**; and

(d) the Site is in an area where no public sewer connection is available.

Water Supply

9.1.6 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

(a) he has no objection to the application;

(b) the Site falls within the consultation zone of Sheung Shui Water Treatment Works, which is a Potentially Hazardous Installation (**Plan A-1**);

(c) the applicant should provide a detailed demand assessment for both potable water and flushing water and an assessment of the impacts of the additional water demand generated by the proposed development on the existing/ planned waterworks infrastructure to demonstrate the preliminary feasibility of catering the additional water demand by the existing/ proposed water supply scheme; and

(d) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Transport

9.1.7 Comments of the Commissioner for Transport (C for T):

(a) she cannot offer support to the application at this stage;

(b) in view of the recent traffic condition on roads in the North District including Man Kam To Road, Po Shek Wu Road and Jockey Club Road, the applicant shall carry out a traffic impact assessment which shall cover Man Kam To Road, Po Shek Wu Road, Jockey Club Road and road network of the Sheung Shui/ Fanling district;

(c) the proposed location and width of the ingress/ egress and demonstrate satisfactory manoeuvring of vehicles entering and existing the Site and no reversing on the local roads should be provided, preferably using swept path analysis; and

(d) the applicant should satisfactorily address the above comments before she can further consider the application.

District Officer's Comments

9.1.8 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals from 21.2.2018 to 5.3.2018 on the application. The incumbent North District Council member of the subject constituency, the Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of San Uk Ling and the RR of Lo Wu had no comment on the proposal; and the Ta Kwu Ling District Rural Committee and 打鼓嶺沙嶺村居民福利會 did not reply to the consultation.

9.2 The following Government departments have no objection/ comment on the application:

(a) Chief Highway Engineer/New Territories East, Highway Department (CHE/NTE, HyD);
(b) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), NDO, CEDD);
(c) Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
(d) Director of Fire Services (D of FS); and
(e) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 13.2.2018, the application was published for public inspection. During the statutory public inspection period, 17 public comments were received (**Appendix V**). Kadoorie Farm and Botanic Garden, The Hong Kong Bird Watching Society, World Wide Fund for Nature Hong Kong, Designing Hong Kong and 11 individuals object to the application mainly on the grounds that it is a typical example of "destroy first, develop later" case; hydroponic farm should be located in industrial buildings/ zones; the Site is of high ecological and conservation value which is similar to Long Valley; landfilling activity had created flooding and drainage problems

in the area; the proposed development would have adverse traffic impact on the already congested Man Kam To Road; the Site should be reinstated to farmland; and approval of the application would set an undesirable precedent for similar applications. The Chairman of Sheung Shui District Rural Committee has no comment on the application while an incumbent NDC member supports the application since the proposed development would provide convenience to people in need.

11. Planning Considerations and Assessments

11.1 The current application is for proposed filling of land and pond for the permitted agriculture use (hydroponic farm) at the Site falling within the "AGR" zone. The planning intention of the "AGR" zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Whilst agricultural use in the "AGR" zone is always permitted, any form of land filling (except for laying of soil not exceeding 1.2m in thickness for cultivation or construction of any agricultural structure with prior written approval issued by LandsD), or pond filling will require planning permission from the Board. The requirement for planning permission for land/pond filling operation is to ensure that it would not cause adverse drainage and landscape impacts on the adjacent areas or adverse impacts on the natural environment. For the subject case, the Site is over 2 hectares and majority of it had been filled without planning permission. The current application is for further filling of the entire Site to about +6.5mPD (which is about 2-3m in thickness based on original ground level).

11.2 As mentioned in paragraph 4 above, the current application is a "Destroy First, Build Later" case. The subject application should not be assessed based on the "destroyed" state of the site. The Site was previously covered with fallow agricultural land and some shallow ponds (**Plans A-2a and 3**) but significant vegetation clearance arising from filling of land and pond and vehicular access outside the Site were carried out in 2017. Land and pond filling activities with vegetation clearance had subsequently taken place (see site photos on **Plan A-4a to 4c**). Although the northern part of the Site covering Lots 466, 520RP, 521 to 523 in DD89 had once obtained approvals from AFCD and LandsD for erection of agricultural structures, the land filling activities at that part of the Site exceeding +3.9mPD had never been agreed by relevant departments and the relevant Letter of Approval (LoA) and associated Certificates of Exemption (for Building Works and Site Formation) were cancelled and revoked on 12.10.2017. In this connection, DLO/N, LandsD objects to the application from the land administration point of view on the grounds that there are illegal structures on the Site, illegal occupation of Government land and illegal landfilling activities had been carried out on the Site. As for the rest of the Site, the land/pond filling activities had never obtained permission from relevant departments.

11.3 The applicant has not provided any justification for the required depth of land-filling (i.e. over 5mPD) for erection of hydroponic farm/ greenhouses and ancillary facilities. There is no information in the submission to demonstrate that the development will not result in adverse ecological, environmental, drainage and traffic impacts. In this regard, DAFC and C for T object to the application while CE/MN, DSD and DEP have reservation on the application.

11.4 The extensive filling of land and pond with hard surface is considered incompatible with the rural agricultural landscape character in the area and no information is provided to

justify the extent of land filling. In this regard, CTP/UD&L, PlanD objects to the application from landscape planning point of view. She further considers that the approval of the application may set an undesirable precedent to encourage similar vegetation clearance/ land filling/ pond filling prior to permission. This will jeopardize the existing valuable rural landscape resources and irreversibly degrade the agricultural landscape character in the area. Given the fact that there is no similar application for land/pond filling approved by the Board within the "AGR" zones on the Fu Tei Au and Sha Ling OZP, approving the application would set an undesirable precedent for similar applications within "AGR" zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

11.5 Regarding the adverse public comments objecting the application mainly on grounds that it is a typical example of "destroy first, develop later" case; hydroponic farm should be located in industrial buildings/ zones; the Site is of high ecological and conservation value which is similar to Long Valley; landfilling activity had created flooding and drainage problems in the area; the proposed development would have adverse traffic impact on the already congested Man Kam To Road; the Site should be reinstated to farmland; and approval of the application would set an undesirable precedent for similar applications. In this regard, enforcement actions have been taken on majority of the Site, requiring the concerned parties to discontinue the UD and to reinstate the land. The Government departments' comments and the planning considerations and assessments above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:

(a) the planning intention of the "Agriculture" ("AGR") zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justifications for land/pond filling of 2-3m in height (+6.5mPD) for agricultural purpose;

(b) the applicant fails to demonstrate that the filling of land and pond would not cause adverse drainage, environmental, ecological, landscape and traffic impacts on the surrounding area; and

(c) the approval of the application would set an undesirable precedent for other similar applications within the "AGR" zone. The cumulative impact of approving such applications would result in a general degradation of the environment of the area.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 6.4.2022, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

(a) no part of the Site shall be filled to a depth exceeding 3m (or +6.5mPD), as proposed by the applicant;

(b) the submission of Environmental Assessment (EA) Report within 6 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by **6.10.2018**;

(c) in relation to (b) above, the implementation of the mitigation measures identified therein within 9 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by **6.1.2019**;

(d) the submission of Ecological Impact Assessment (EcoIA) within 6 months from the date of planning approval to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board by **6.10.2018**;

(e) in relation to (d) above, the implementation of the mitigation measures identified therein within 9 months from the date of planning approval to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board by **6.1.2019**;

(f) the submission of Drainage Impact Assessment (DIA) within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **6.10.2018**;

(g) in relation to (f) above, the implementation of drainage proposal identified therein within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **6.1.2019**;

(h) the submission of Traffic Impact Assessment (TIA) within 6 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by **6.10.2018**;

(i) in relation to (h) above, the implementation of improvement measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by **6.1.2019**;

(j) the submission of water demand assessment within 6 months from the date of planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by **6.10.2018**;

(k) if condition (a) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and

(l) if any of the above planning conditions (b), (c), (d), (e), (f), (g), (h), (i) or (j) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 8.2.2018
Appendix Ia	Supplementary Information received on 12.2.2018
Appendix II	Previous Applications
Appendix III	Detailed Comments of EPD on Environmental Assessment Report's Requirements
Appendix IV	Detailed Comments of DSD on the Drainage Proposal's General Requirements
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Location of Land and Pond Filling
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Drainage and Stream Diversion Proposal
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Enforcement Cases on Site
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

PLANNING DEPARTMENT
APRIL 2018